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KEKER &amp; VAN NEST LLP

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5 Attorneys for Plaintiff  
6 NETFLIX, INC.

7 UNITED STATES DISTRICT COURT  
8 NORTHERN DISTRICT OF CALIFORNIA  
9

10 NETFLIX, INC., a Delaware corporation,

11 Plaintiff,

12 v.

13 BLOCKBUSTER, INC., a Delaware  
14 corporation, DOES 1-50,

15 Defendant.

16 AND RELATED COUNTERCLAIMS  
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Case No. C 06 2361 WHA (JCS)

**THIRD AMENDED NOTICE OF  
DEPOSITION OF BLOCKBUSTER, INC.  
PURSUANT TO FED. R. CIV. P. 30(B)(6)**

Date: April 12, 2007

Time: 9:30 am

Place: Figari & Davenport, LLP  
3400 Bank of America Plaza  
901 Main Street  
Dallas, Texas 75202

Complaint filed: April 4, 2006

**SCHEDULE A**

**I. DEFINITIONS**

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3 1. "BLOCKBUSTER" means Blockbuster, Inc., and each of its divisions,  
4 subsidiaries, departments, predecessor and successor companies, affiliates, parents, any joint  
5 venture to which it may be a party, and/or each of its past and present employees, agents,  
6 officers, directors, representatives, consultants, accountants and attorneys, including without  
7 limitation BLOCKBUSTERONLINE as defined herein.

8 2. "BLOCKBUSTERONLINE" refers to BLOCKBUSTER'S online rental services,  
9 (including, but not limited to, services operated in the United Kingdom), their predecessors  
10 (including, but not limited to, Film Caddy and Blockbuster "Rental by Post") and successors.

11 3. "NETFLIX" as used herein means Netflix, Inc., its subsidiaries, divisions,  
12 predecessor and successor companies, affiliates, parents, any joint venture to which it may be a  
13 party, and/or each of its employees, agents, officers, directors, representatives, consultants,  
14 accountants and attorneys, including any person who served in any such capacity at any time.

15 4. "ACCENTURE" as used herein means Accenture, Inc., its subsidiaries, divisions,  
16 predecessor and successor companies, affiliates, parents, any joint venture to which it may be a  
17 party, and/or each of its employees, agents, officers, directors, representatives, consultants,  
18 accountants and attorneys, including any person who served in any such capacity at any time.

19 5. "IBM" as used herein means International Business Machines Corporation, its  
20 subsidiaries, divisions, predecessor and successor companies, affiliates, parents, any joint  
21 venture to which it may be a party, and/or each of its employees, agents, officers, directors,  
22 representatives, consultants, accountants and attorneys, including any person who served in any  
23 such capacity at any time.

24 6. "IMC2" refers to IMC2 GP LLC (d/b/a IMC<sup>2</sup>), its parents, subsidiaries, divisions,  
25 affiliates, assigns, successors, acquired assets, business units, and any present or former officers,  
26 directors, trustees, employees, agents, representatives, attorneys, associates, and/or all other  
27 persons acting, or purporting to act, on its behalf.

28 7. "MINTER & REID" refers to Minter & Associates, Inc. (d/b/a "Minter & Reid")

1           8.       The efforts undertaken by BLOCKBUSTER to retain and locate documents,  
2 including without limitation email, in support of BLOCKBUSTER'S Fed. R. Civ. P. 26 Initial  
3 Disclosures and in response to NETFLIX'S document requests to BLOCKBUSTER.

4           9.       All COMMUNICATIONS between BLOCKBUSTER and its counsel, including  
5 but not limited to in-house counsel; Alschuler Grossman, LLP and its predecessor firms; Baker  
6 Botts, LLP; Blakely Sokoloff Taylor & Zafman, LLP; and/or Shearman & Sterling, LLP,  
7 regarding the validity or invalidity of any claim of either of the PATENTS-IN-SUIT.

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1 **PROOF OF SERVICE**

2 I am employed in the City and County of San Francisco, State of California in the office  
3 of a member of the bar of this court at whose direction the following service was made. I am  
4 over the age of eighteen years and not a party to the within action. My business address is Keker  
& Van Nest, LLP, 710 Sansome Street, San Francisco, California 94111.

5 On April 4, 2007, I served the following document(s):

6 **THIRD AMENDED NOTICE OF DEPOSITION OF BLOCKBUSTER, INC.**  
7 **PURSUANT TO FED. R. CIV. P. 30(B)(6)**

8 by **FACSIMILE TRANSMISSION (PERSONAL) AND UNITED STATES MAIL**, by  
9 transmitting via facsimile a true and correct copy on this date. The transmission was reported as  
10 complete and without error. Additionally, a true and correct copy was placed in a sealed  
11 envelope addressed as shown below. I am readily familiar with the practice of Keker & Van  
12 Nest, LLP for collection and processing of correspondence for mailing. According to that  
13 practice, items are deposited with the United States Postal Service at San Francisco, California  
on that same day with postage thereon fully prepaid. I am aware that, on motion of the party  
served, service is presumed invalid if the postal cancellation date or the postage meter date is  
more than one day after the date of deposit for mailing stated in this affidavit.

14 Marshall B. Grossman, Esq.  
15 William J. O'Brien, Esq.  
16 **ALSCHULER GROSSMAN LLP**  
17 1620 26<sup>th</sup> Street, 4<sup>th</sup> Floor, North Tower  
Santa Monica, CA 90404-4060  
Fax: 310/907-2033

18 Executed on April 4, 2007, at San Francisco, California.

19 I, Diane Blais Miller, declare under penalty of perjury under the laws of the United States  
20 that the above is true and correct.

21   
22 **DIANE BLAIS MILLER**